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EXAMINER
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ART UNIT	PAPER NUMBER
3626	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _15 April 2004_.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-38_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-38_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _15 April 2004_ is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _9/30/2004_.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

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DETAILED ACTION

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1.   Claims 1 – 38 are pending.

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Drawings

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2.   The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include

the following reference character(s) not mentioned in the description: 128. Corrected drawing sheets in

compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in

the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid

abandonment of the application. Any amended replacement drawing sheet should include all of the

figures appearing on the immediate prior version of the sheet, even if only one figure is being amended.

Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as

either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not

accepted by the examiner, the applicant will be notified and informed of any required corrective action in

the next Office action. The objection to the drawings will not be held in abeyance.

3.   The drawings are objected to because reference character 144 is not clearly defined in paragraph

[0144]. It appears to be a typographical error, as reference character 144 is better defined in the middle

of paragraph [0144]).

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Claim Rejections - 35 USC § 112

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4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.   Claims 13, 19, 32, and 38 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards

as the invention. The limitation "numeric range-based variable" is vague and indefinite. The Examiner

has interpreted this limitation as a vital sign reading (i.e. blood pressure, temperature).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1 - 38 rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al., herein

after Ross (U.S. Patent Number 7,076,436 B1) in view of Wheeler et al., herein after Wheeler (U.S.

Publication Number 2003/0097573 A1).

    In regard to claim 1, Ross teaches a data entry method comprising:

- contacting a data source in possession of the desired field data (Figures 2, 4, and 5; column 2,

   lines 53 – 61; and, column 9, line 16 – 31) where the contact in the form of an office visit; and

- receiving the desired field data from the data source (column 4, line 67 through column 5, line 3).

Ross fails to teach a method comprising: in a computer-based data record including a plurality of data

fields, defining one or more data fields for which desired field data is to be acquired.

    Wheeler teaches a method comprising: in a computer-based data record including a plurality of data

fields, defining one or more data fields for which desired field data is to be acquired (paragraphs [0168]

and [0299]). Wheeler discloses data fields in relation to a payment method, however, the method of

entering data is the same regardless of the data entered.

    Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention

was made to include a method comprising: in a computer-based data record including a plurality of data

fields, defining one or more data fields for which desired field data is to be acquired as taught by Wheeler,

within the method of Ross, with the motivation of providing a method of communicating electronically with

security features in place (paragraph [0015]).

In regard to claim 2, Ross teaches the method of claim 1 further comprising updating the computer-based data record to include the desired field data (column 7, lines 15 – 16 and column 14, lines 12 – 19) where Ross discloses a method in which a Nurse may update a data field by adding a patient's (or data source) vital signs.

In regard to claim 3, Ross teaches the method of claim 1 wherein the computer-based data record is a medical record (Abstract; Figures 5, 6, and 7; column 1, lines 45 – 46; and, column 2, lines 24 – 26).

In regard to claim 4, Ross teaches the method of claim 3 wherein the data source is a patient and the medical record defines at least a portion of the medical history of the patient (column 9, lines 16 – 31).

In regard to claim 5, Ross teaches the method of claim 1. Ross fails to teach a method wherein contacting a data source includes: authenticating the data source.

Wheeler teaches a method wherein contacting a data source includes: authenticating the data source (Figures 5B, 8, and 12; paragraphs [0130], [0138], and [0153]).

The motivation to combine the teachings of Ross and Wheeler is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 6, Ross teaches the method of claim 5 wherein authenticating the data source includes: requiring that the data source enter an electronic password (column 6 lines 50 – 64 and column 12, line 46 through column 13, line 2). Although Ross does not explicitly teach a data source (or patient) entering an electronic password, it is obvious that the same process would be used to enter the password regardless of who was entering the password. Ross fails to teach a method including receiving the electronic password.

Wheeler teaches a method including receiving the electronic password (paragraph [0148]).

The motivation to combine the teachings of Ross and Wheeler is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 7, Ross teaches the method of claim 5. Ross fails to teach a method wherein authenticating the data source includes: requiring that the data source speak a verbal password receiving the verbal password.

Wheeler teaches a method wherein authenticating the data source includes: requiring that the data source speak a verbal password receiving the verbal password (paragraphs [0149] and [0241]) where Wheeler discloses verbal authentication.

The motivation to combine the teachings of Ross and Wheeler is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 8, Ross teaches the method of claim 5. Ross fails to teach a method wherein authenticating the data source includes: requiring that the data source provide an authenticating digital certificate receiving the authenticating digital certificate.

Wheeler teaches a method wherein authenticating the data source includes: requiring that the data source provide an authenticating digital certificate receiving the authenticating digital certificate (paragraphs [0007], [0008], [0009], [0010], and [0011]).

The motivation to combine the teachings of Ross and Wheeler is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 9, Ross teaches the method of claim 1. Ross fails to teach a method wherein contacting a data source includes: transmitting an email to the data source.

Wheeler teaches a method wherein contacting a data source includes: transmitting an email to the data source (Figure 57 and paragraph [0259]) where a customer can be equated to the data source (patient).

The motivation to combine the teachings of Ross and Wheeler is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 10, Ross teaches the method of claim 9 wherein contacting a data source further includes: providing the data source with text-based instructions concerning the desired field data (Figure 5; column 9, lines 23 – 31; column 10, lines 48 – 49; and column 11, lines 39 – 43).

In regard to claim 11, Ross teaches the method of claim 1 wherein contacting a data source includes: telephonically contacting the data source (column 5, lines 27 – 35) where Ross discloses a telephone system which can be used for network communication. Although Ross does not explicitly teach contacting a data source via a telephone, it would be obvious that this communication could occur based on the existence of a telephone system.

In regard to claim 12, Ross teaches the method of claim 11. Ross fails to teach a method wherein contacting a data source includes: providing the data source with speech-based instructions concerning the desired field data.

Wheeler teaches a method wherein contacting a data source includes: providing the data source with speech-based instructions concerning the desired field data (paragraphs [0213]).

The motivation to combine the teachings of Ross and Wheeler is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 13, Ross teaches the method of claim 1 wherein the desired field data concerns a numeric range-based variable (Figure 5; column 9, lines 23 – 31; and, column 11, lines 12 – 19).

In regard to claim 14, Ross teaches a data entry method comprising:

- wherein the medical record defines at least a portion of the medical history of a patient (column 9, lines 15 - 31).

- receiving the desired field data from the patient (column 4, line 67 through column 5, line 3); and

- updating the computer-based medical record to include the desired field data (column 7, lines 15 – 16 and column 14, lines 12 – 19); and,

- telephonically contacting the patient (column 5, lines 27 – 35).

Ross fails to teach a method comprising: in a computer-based medical record including a plurality of data fields, defining one or more data fields for which desired field data is to be acquired and telephonically contacting the patient.

Wheeler teaches a method comprising: in a computer-based medical record including a plurality of data fields, defining one or more data fields for which desired field data is to be acquired (paragraphs [0168] and [0299]).

The motivation to combine the teachings of Ross and Wheeler is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 15, Ross teaches the method of claim 14. Ross fails to teach a method wherein telephonically contacting the patient includes: authenticating the patient.

Wheeler teaches a method wherein telephonically contacting the patient includes: authenticating the patient (Figures 5B, 8, and 12; paragraphs [0130], [0138], and [0153]).

The motivation to combine the teachings of Ross and Wheeler is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 16, Ross teaches the method of claim 15 wherein authenticating the patient includes: requiring that the patient enter an electronic password (column 6 lines 50 – 64 and column 12, line 46 through column 13, line 2). Ross fails to teach a method including receiving the electronic password.

Wheeler teaches a method including receiving the electronic password (paragraphs [0148] and [0149]).

The motivation to combine the teachings of Ross and Wheeler is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 17, Ross teaches the method of claim 15. Ross fails to teach a method wherein authenticating the patient includes: requiring that the patient speak a verbal password receiving the verbal password.

Wheeler teaches a method wherein authenticating the patient includes: requiring that the patient speak a verbal password receiving the verbal password (paragraphs [0149] and [0241]). Wheeler discloses a biometric value.

The motivation to combine the teachings of Ross and Wheeler is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 18, Ross teaches the method of claim 14. Ross fails to teach a method wherein telephonically contacting the patient includes providing the patient with speech based instructions concerning the desired field data.

Wheeler teaches a method wherein contacting a patient includes: providing the patient with speech-based instructions concerning the desired field data (paragraphs [0213]).

The motivation to combine the teachings of Ross and Wheeler is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 19, Ross teaches the method of claim 1 wherein the desired field data concerns a numeric range-based variable (Figure 5; column 9, lines 23 – 31; and, column 11, lines 12 – 19).

Computer program product claims 20 – 38 repeat the subject matter of method claims 1 – 19 as a set of apparatus elements rather than a series of steps. As the underlying elements of claims 1 - 19 have been shown to be fully disclosed by the teachings of Ross and Wheeler in the above rejection of claims 1 – 19, it is readily apparent that the computer program product apparatus performs these steps. As such, these limitations (20 - 38) are rejected for the same reasons given above for method claims 1 - 19, and incorporated herein.

Conclusion

8.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Myers (U.S. Publication Number 2004/0254816 A1) teaches a network-connected personal medical information and billing system.

- Cohen et al. (U.S. Publication Number 2005/0021369 A1) teaches a system and method for context relevant information management and display.

- Ghouri (U.S. Publication Number 2005/0021519 A1) teaches a system and method for creating and maintaining an internet based universally accessible and anonymous patient medical home page.

9.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626